

National Security and Emergency Preparedness Communications: A Summary of Executive Order 13618

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Summary

In the event of a national security crisis or disaster, federal, state, local, and territorial government and private sector communications are important. National security and emergency preparedness communication systems include landline, wireless, broadcast and cable television, radio, public safety systems, satellite communications, and the Internet. For instance, federal national security and emergency preparedness communications programs include the Government Emergency Telecommunications Service, Wireless Priority Service, and classified messaging related to the Continuity of Government Condition. Reliable and secure telecommunications systems are necessary to effectively manage national security incidents and emergencies.

On July 6, 2012, President Barrack Obama issued Executive Order (EO) 13618 which addresses the federal government's need and responsibility to communicate during national security and emergency situations and crises by assigning federal national security and emergency preparedness communications functions. EO 13618 is a continuation of older executive orders issued by other presidents and is related to the Communications Act of 1934 (47 U.S.C. §606). This executive order, however, changes federal national security and emergency preparedness communications functions by dissolving the National Communications System, establishing an executive committee to oversee federal national security and emergency preparedness communications functions, establishing a programs office within the Department of Homeland Security to assist the executive committee, and assigning specific responsibilities to federal government entities. This report provides a summary of EO 13618 provisions, and a brief discussion of its salient points.

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Introduction

Section 706 of the Communications Act of 1934,¹ as amended by 47 U.S.C. §606, authorizes the President, among other things, to address national security and emergency preparedness (NS/EP) telecommunications issues and assign federal department, agency, and entity NS/EP telecommunications responsibilities. On July 6, 2012, President Barack Obama issued an Executive Order 13618 to assign those NS/EP communications functions effective immediately.²

Generally, EO 13618 states that the federal government must have the ability to communicate at all times and under all circumstances. Specifically, the order outlines the federal government's need and responsibility to communicate during national security and emergency situations and crises and provides direction for such communications.

The federal government uses numerous NS/EP communications systems and programs to effectively communicate during incidents and emergencies. Some of these systems and programs include the Government Emergency Telecommunications Service (GETS),³ Wireless Priority Service (WPS),⁴ and classified messaging related to the Continuity of Government Condition (COGCON). These systems and programs use both classified and nonclassified communications systems to assist the national leadership, and affected entities such as state and local governments, non-governmental organizations, the private sector, and the public, in communicating during emergencies and crises. These communications systems are both federally and privately owned and operated.

The 2010 *National Security Strategy*, the primary federal government guidance on national security, reiterates the notion that reliable and secure telecommunication is necessary to effectively manage emergencies,⁵ and that the United States must prevent disruptions to critical communications.⁶

Following the enactment of the Communications Act of 1934, numerous Presidents have issued executive orders addressing NS/EP communications. For example, in 1962 President John F. Kennedy issued EO 10995 that assigned federal telecommunications management functions; in March 1978, President Jimmy Carter issued EO 12046 that transferred certain federal telecommunication functions; on September 13, 1982, President Ronald Reagan issued EO 12382 that established the National Security Telecommunications Advisory Committee; and President William Clinton issued EO 12919 on June 3, 1994, that addressed national security telecommunications related to national defense industry resources preparedness.

EO 13618, however, changes federal NS/EP communications functions by dissolving the National Communications System (NCS), establishing an executive committee to oversee federal NS/EP communications functions, establishing a programs office within the Department of Homeland Security (DHS) to assist the executive committee, and assigning specific responsibilities to federal government entities. This report addresses EO 13618 salient provisions and provides a summary of EO 13618.

¹ P.L. 416, 48 Stat. 1064.

² For information on executive orders in general, see CRS Report RS20846, *Executive Orders: Issuance, Modification, and Revocation*, by Todd Garvey and Vivian S. Chu.

³ For information on GETS, see <http://gets.ncs.gov>.

⁴ For information on WPS, see http://wps.ncs.gov/program_info.html.

⁵ Office of the President, *National Security Strategy*, Washington, DC, May 2010, p. 19.

⁶ *Ibid.*, p. 50.

Analysis of EO 13618

Three sections of EO 13618 affect the federal government's NS/EP communications functions: Section 3 "NS/EP Communications Executive Committee," Section 4 "Executive Committee Joint Program Office," and Section 5 "Specific Department and Agency Responsibilities." These three sections direct federal department and agency actions. It appears as if DHS is assigned increased NS/EP communications functions. Specifically, EO 13618 affects DHS by dissolving NCS; creating a new committee, the NS/EP Communications Executive Committee and assigning DHS the responsibility of co-chairing that committee with DOD; establishing and supporting the Executive Committee Joint Program Office; and leading non-military federal department and agency NS/EP communications activities. These changes are described in the next section.

NS/EP Communications Executive Committee

EO 13618 changes the management of federal NS/EP communications functions and activities by dissolving NCS and placing NCS activities with the newly established NS/EP Communications Executive Committee. The NCS was responsible for coordinating the planning of NS/EP communications for the federal government under all circumstances, including crisis or emergency, attack, recovery and reconstitution.⁷ Arguably, the Committee replaces NCS's Committee of Principles (COP) and COP's Committee of Representatives, which were responsible for coordinating the federal government's NS/EP communications. It is possible, though not stated, that the Committee will participate in industry-government planning that NCS conducted with the National Security Telecommunications Advisory Committee⁸ because EO 13618 guidance (Section 3.3(g)) instructs the Committee to "enable industry input."⁹ Again, this executive order does not change existing NS/EP programs or their activities, however, it affects the management of these programs.

The NS/EP Communications Executive Committee is the primary policy forum for addressing national NS/EP communications issues. It is composed of Assistant Secretary-level representatives. It is co-chaired by DHS and DOD and is responsible for advising the President on enhancing NS/EP communications survivability and resilience. The Committee is directed by EO 13618 to develop strategy which includes funding requirements and plans. The Committee is the primary federal entity responsible for NS/EP communications policy discussions. The Committee is similar to other interagency policy committees formulated and established under the National Security Council per PPD-1.

DHS's National Communications System (NCS) was tasked with a similar mission as that which is assigned to the NS/EP Communications Executive Committee. In 1963, President John F. Kennedy established NCS following the Cuban Missile Crisis and the issues associated with the communications among the United States and the Soviet Union. In 1984, President Ronald Reagan broadened NCS NS/EP capabilities and responsibilities with the issuance of EO 12472.¹⁰

⁷ Specifically, the mission of the NCS is to assist the President, the National Security Council, the Homeland Security Council, the Office of Science and Technology Policy and the Office of Management and Budget, in the coordination of the planning for and provisioning of national security and emergency preparedness communications for the Federal Government under all circumstances, including crisis or emergency, attack, recovery and reconstitution. For more information visit their website at <http://www.ncs.gov/faq.html#ncs>.

⁸ The National Security Telecommunications Advisory Committee was established by EO 12382.

⁹ EO 13618, Section 3.3(g).

¹⁰ U.S. Department of Homeland Security, National Communications System, "Background and History of the NCS,"

Following 9/11 and the enactment of the Homeland Security Act, NCS was transferred to DHS.¹¹ On November 15, 2005, NCS was internally transferred to DHS's Directorate of Preparedness. EO 13618, however, dissolves NCS by revoking EO 12472. DHS states that

Although many of the NCS programs will continue to support NS/EP communications, oversight of these programs now fall to the Department of Homeland Security's Office of Cybersecurity and Communications, part of the National Protection and Programs Directorate (NPPD).¹²

The activities and responsibilities of the Committee are supported by the Executive Committee Joint Program Office.

Executive Committee Joint Program Office

EO 13618 requires DHS to establish an Executive Committee Joint Program Office (JPO). JPO is to support Committee activities. Even though DHS is to establish and administratively support JPO, the Committee, as a whole, is responsible for providing JPO personnel. DHS, however, is responsible for providing resources and funding to JPO.

Arguably, JPO will assume some of the former NCS's day-to-day activities. JPO is specifically required to coordinate programs that support NS/EP missions, priorities, goals, and policy, which was the case for NCS. JPO is also required to support and convene governmental and non-governmental groups and meetings. Additionally, JPO is to coordinate activities and develop policies for senior (Committee) official review and approval.¹³ One might expect, though the executive order does not explicitly state, that the JPO would be managed, administered, and staffed in a similar manner as the Homeland Security Operations Center which is a different interagency entity that is managed, administered, and staffed by detailed personnel from participating federal departments and agencies.

Specific Department and Agency Responsibilities

EO 13618 details federal department and agency responsibilities related to NS/EP communications functions. The executive order specifically identifies Departments of Defense (DOD), DHS, the Department of Commerce, the Administrator of General Services, the Director of National Intelligence, and the Federal Communications Commission responsibilities. DHS, however, is tasked with a significant portion of NS/EP communications responsibilities.

DOD is tasked with a continuation of its responsibilities in oversight of the development, testing, implementation, and sustainment of NS/EP communications that directly affect the national security needs of the President, Vice President, and senior national leadership. In addition, DOD is now responsible for ensuring the security and survivability of this NS/EP communications. DOD is also newly tasked with providing the Committee technical support and provide, operate, and maintain communication services and facilities associated with the Intelligence Community consistent with EO 12333.¹⁴ DOD has always been responsible for these responsibilities, EO 13618 reiterates this assignment of responsibilities.

Washington, DC, <http://www.ncs.gov/about.html>.

¹¹ 116 Stat. 2149.

¹² U.S. Department of Homeland Security, National Communications System, "Background and History of the NCS," Washington, DC, <http://www.ncs.gov/about.html>.

¹³ EO 13618, Section 4.2.

¹⁴ Ibid., Section 5.1. EO 12382 established the National Security Telecommunications Advisory Committee.

DHS, like DOD, is tasked with overseeing the development, testing, implementation, and sustainment of NS/EP communications associated with non-DOD communications systems or responsibilities. This includes Continuity of Government (COG), and all levels of government emergency preparedness and response, non-DOD communications systems, and critical infrastructure protection networks. Similar to DOD, DHS is responsible for ensuring the security and survivability of NS/EP communications. DHS is to provide technical support to the Committee. As the lead federal agency, DHS is to receive, integrate, and disseminate NS/EP communications information to other federal, state, local, territorial, and tribal governments to establish a common operating picture and situational awareness. As stated earlier, DHS is to establish the JPO and serve as the lead federal agency for the prioritization restoration of NS/EP communications. Finally, within 60 days of the EO 13618 issuance, DHS is to submit a detailed plan to the President that describes DHS's organization and management structure for its NS/EP communications functions due to NCS's dissolution.¹⁵

The Commerce Secretary is responsible for providing advice and guidance to the Committee in identifying and using technical standards and metrics for enhancing NS/EP communications. Additionally, the Commerce Secretary is to develop and maintain radio frequencies as they relate to NS/EP communications.

The GSA Administrator is to provide and maintain a common acquisition approach for federal NS/EP communications. The Director of National Intelligence (DNI) may issue policy directives and guidance deemed necessary to implement EO 13618. Finally, the Federal Communications Commission (FCC) is to continue its practice of licensing and regulating radio frequencies.¹⁶

Table 1 below provides more detailed information about the specific responsibilities.

Summary of EO 13618

Generally, EO 13618 states that the federal government must have the ability to communicate at all times and under all circumstances. It assigns executive office responsibilities through Presidential Policy Directive 1 (PPD 1).¹⁷ It establishes the NS/EP Communications Executive Committee¹⁸ and the Executive Committee Joint Program Office.¹⁹ EO 13618 assigns specific and general federal department and agency responsibilities.²⁰ Finally, it identifies previous executive orders that are amended and revoked.²¹

¹⁵ Ibid., Section 5.2.

¹⁶ Ibid., Section 5.3-5.6.

¹⁷ Organization of the National Security Council System, February 13, 2009.

¹⁸ EO 13618, Section 3.

¹⁹ Ibid., Section 4.

²⁰ Ibid., Section 5-6.

²¹ Ibid., Section 7.

Table I. EO 13618 Summary

Section	Summary
1: Policy	Survivable, resilient, and secure domestic and international communications are essential for the executive branch to communicate with itself; the legislative and judicial branches; state, local, territorial, and tribal governments; the private sector; the public; its allies; and other nations. This communication is necessary to ensure national security, manage emergencies, and improve national resilience.
2: Executive Office Responsibilities	Policy coordination, guidance, dispute resolution, and periodic reviews of NS/EP telecommunications functions are provided through the interagency process established in PPD 1. The Director of the Office of Science and Technology Policy (OSTP) ^a is assigned the responsibilities of issuing an annual memorandum to the NS/EP Communications Executive Committee; advising the President on prioritization of the radio spectrum and wired communications that support NS/EP functions; and accessing information related to the test, exercise, evaluation of existing and planned NS/EP communications systems.
3: NS/EP Communications Executive Committee	<p>The Committee addresses NS/EP communications issues. It is comprised of Assistant Secretary-level, or equivalent, representatives designated by the heads of the departments of State, Defense, Justice, Commerce, and Homeland Security; the Office of Director of National Intelligence; the General Services Administration, and the Federal Communications Commission. Other representatives may be designated by the Committee. The Committee is co-chaired by the departments of Defense's and Homeland Security's designees.</p> <p>Generally, the Committee advises and makes NS/EP communications policy recommendations to the President on enhancing the survivability, resilience, and future NS/EP communications architecture. This includes developing a NS/EP communications strategic vision, coordinating the planning of NS/EP communications for all hazards, promoting NS/EP communications resilience and survivability under all circumstances. Additionally, the Committee is to recommend, to the President, plans to test, exercise, and evaluate NS/EP communications capabilities including remedial actions. Finally, the Committee is to provide quarterly updates to the Assistant to the President for Homeland Security and Counterterrorism and the OSTP Director on Committee activities, and enable private sector and industry input.</p>

Section	Summary
4: Executive Committee Joint Programs Office	<p>The Department of Homeland Security (DHS) Secretary is to establish an Executive Committee Joint Program Office (JPO) to provide full-time administrative support to the Committee. The JPO will be staffed by detailed personnel from agencies represented on the Committee. DHS is responsible for providing resources to support JPO.</p> <p>JPO is responsible for coordinating programs that support NS/EP communications activities, priorities, goals, and policy. Additionally, JPO is responsible for convening Committee-designated governmental and nongovernmental groups.</p>
5: Specific Department and Agency Responsibilities	<p>The Secretary of Defense is to oversee the development, testing, implementation, and sustainment of NS/EP communications that are directly responsive to the nation's national security needs. These include communications with or among the President, Vice President, White House staff, heads of state and government, and Nuclear Command and Control leadership. Additionally, it includes Continuity of Government (COG) communications. The Secretary of Defense is to provide the Committee technical support to develop and maintain plans for the security and protection of NS/EP communications, and provide, operate, and maintain communications systems and facilities consistent with EO 12333.^b</p> <p>The Secretary of Homeland Security is to oversee the development, testing, implementation, and sustainment of NS/EP communications in support of COG; federal, state, local, territorial, and tribal emergency preparedness and response; non-military executive branch communications and networks; and critical infrastructure protection networks. The Secretary of Homeland Security is to integrate and ensure the security, protection, and interoperability of NS/EP communications. Additionally, the Secretary is to provide technical support to the Committee and receive, integrate and disseminate NS/EP communications information to and from federal, state, local, territorial, and tribal governments. The DHS Secretary is to maintain a joint industry-government center that is capable of assisting in the coordination and restoration of NS/EP communications. DHS is to serve as the federal lead for the prioritized restoration of communications infrastructure. Finally, by September 6, 2012, the DHS Secretary, in consultation with the Committee, is to develop and submit a detailed plan on the department's NS/EP communication functions to the President.</p>

Section	Summary
	<p>The Secretary of Commerce is to provide advice and guidance to the Committee on the identification and use of technical standards and metrics to enhance NS/EP communications. The Commerce Secretary is to develop and maintain radio frequency assignments, and administer a system of radio spectrum priorities for those spectrum-dependent telecommunications resources belonging to the federal government.</p> <p>The Administrator of General Services is to provide and maintain a common acquisition approach for the efficient centralized purchasing of equipment and services to meet NS/EP communications requirements.</p> <p>The Director of National Intelligence (DNI), after consultation with heads of affected agencies, may issue such policy directives and guidance as the DNI deems necessary to implement EO 13618.</p> <p>The Federal Communications Commission (FCC) is to perform functions that are required by law in relation to communications, and support the continuous operation and restoration of critical communications systems and services by assisting the DHS Secretary with infrastructure damage assessment and restoration.</p>
6: General Agency Responsibilities	<p>All agencies, to the extent consistent with law, are to determine the scope of their NS/EP communication requirements and provide this requirement information to the Committee. Additionally, all agencies are to prepare policies, plans, and procedures to meet the federal government's NS/EP communications needs. All agencies are to propose initiatives that may benefit multiple agencies, administer programs that support broad NS/EP communications goals, submit annual reports to the Committee on NS/EP communications, and provide the DHS Secretary with timely reports on NS/EP communications statuses.</p>
7: General Provisions	<p>EO 13618 revokes EO 12472^c and amends EO 12382.^d</p>

Source: CRS analysis of EO 13618.

Notes:

- a. OSTP was established by Congress in 1976, 42 U.S.C. 79.
- b. EO 12333, United States Intelligence Activities, December 4, 1981.
- c. EO 12472, Assignment of National Security and Emergency Preparedness Telecommunications Functions, April 3, 1984.
- d. EO 12382, National Telecommunications Advisory Council, September 13, 1982.

Conclusion

EO 13618 is a continuation of presidential authority assigned in the Communications Act of 1934, and modifies or revokes other executive orders related to federal NS/EP communications. As identified earlier in this report, EO 13618 changes federal national security and emergency preparedness communications functions by dissolving the National Communications System, establishing an executive committee to oversee federal national security and emergency

preparedness communications functions, establishing a programs office within the Department of Homeland Security to assist the executive committee, and assigning specific responsibilities to federal government entities. Again, this executive order does not modify or end any NS/EP communications systems or programs, instead it assigns the management and administration of these systems and programs to specific federal departments, agencies, and entities.

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